

AMENDED IN SENATE APRIL 16, 2004

AMENDED IN SENATE MARCH 23, 2004

SENATE BILL

No. 1273

Introduced by Senator Scott

February 13, 2004

An act to amend Section 782 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 1273, as amended, Scott. Insurance: misrepresentations.

Existing law provides that it is a crime, punishable by a fine not exceeding \$1,500, or imprisonment in a county jail for a period not exceeding 6 months, for an insurer or his or her agent, to issue, circulate, or use any misrepresentation of the terms of a policy issued by the insurer or sought to be negotiated by the person making or permitting the misrepresentation, or to make any misrepresentation to another person for the purpose of inducing that other person to take out a policy of insurance or to induce that other person to lapse, forfeit, or surrender insurance in a policy he or she holds. ~~Existing law imposes a special duty of honesty, good faith, and fair dealing on an insurer, broker, agent, and all others engaged in the transaction of insurance with a prospective insured who is 65 years of age or older, except for specified types of insurance transactions. Existing law places restrictions on advertising practices that target senior citizens and the sale of life insurance policies and annuities in the home of a senior citizen.~~

This bill would *instead* provide that a *knowing* violation of these provisions is punishable by a fine of up to ~~\$100,000~~, \$25,000, *or if the loss of the victim exceeds \$10,000, by a fine of up to 3 times that loss,*

by imprisonment in a county jail for a period of up to one year, or by both that a fine and imprisonment. ~~This bill would provide that a violation of these provisions in the course of a transaction with a person who is 65 years of age or older is punishable by a fine not exceeding \$100,000, imprisonment in a county jail for a period not exceeding one year, imprisonment in the state prison, or by both that fine and imprisonment.~~

Because this bill would change the definition of a crime, it would impose a state-mandated, local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 782 of the Insurance Code is amended
2 to read:

3 ~~782. (a) Except as provided in subdivision (b), any person~~
4 ~~who violates the provisions of Section 780 or 781 is punishable by~~
5 ~~a fine not exceeding one hundred thousand dollars (\$100,000), or~~
6 ~~by imprisonment in a county jail for a period not exceeding one~~
7 ~~year, or by both that fine and imprisonment.~~

8 ~~(b) Any person who violates the provisions of Section 780 or~~
9 ~~781 in the course of a transaction with a person who is 65 years of~~
10 ~~age or older is punishable by a fine not exceeding one hundred~~
11 ~~thousand dollars (\$100,000), imprisonment in a county jail for a~~
12 ~~period not exceeding one year, imprisonment in the state prison,~~
13 ~~or by both that fine and imprisonment.~~

14 782. Any person who knowingly violates the provisions of
15 Section 780 or 781 is punishable by a fine not exceeding
16 twenty-five thousand dollars (\$25,000), or in a case in which the
17 loss of the victim exceeds ten thousand dollars (\$10,000), by a fine
18 not exceeding three times the amount of the loss suffered by the
19 victim, imprisonment in a county jail for a period not to exceed one
20 year, or by both a fine and imprisonment. Restitution to the victim

1 *ordered pursuant to Section 1202.4 of the Penal Code shall be*
2 *satisfied before any fine imposed by this section is collected.*

3 SEC. 2. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the penalty
8 for a crime or infraction, within the meaning of Section 17556 of
9 the Government Code, or changes the definition of a crime within
10 the meaning of Section 6 of Article XIII B of the California
11 Constitution.

